

## § 1781.10

reasonable and fair by the loan approval official based upon an appraisal of the current market value made by an Rural Development employee or an independent appraiser.

(i) *Water rights.* Applicants will be required to comply with applicable State and local laws and regulations governing appropriating, diverting, storing and using water, changing the place and manner of use of water, and in disposing of water. All of the rights of any landowner, appropriator, or user of water from any source will be fully honored in all respects as they may be affected by facilities installed with WS loans and advances and RCD loans. If, under the provisions of State law, notice of the proposed diversion or storage of water by the applicant may be filed, the applicant will be required to file such a notice. An applicant must furnish evidence to provide reasonable assurance that its water rights will be or have been properly established, will not interfere with prior vested rights, will likely not be contested or enjoined by other water users or riparian owners, and will be within the provisions of any applicable interstate compact.

## § 1781.10 [Reserved]

## § 1781.11 Other considerations.

(a) *Technical assistance.* When pipelines from reservoirs to treatment plants are included in watershed work plans, NRCS will not furnish engineering services for their design or installation. When such pipelines are to be financed by WS or RCD loans, RUS will supervise the activities of the private engineers retained for the purpose. Such RUS supervision will include, among other things, approval of private engineer's contracts, approval of plans and specifications, authorization of contract awards, spot checks of engineering inspection, and final inspection and acceptance.

(b) *Professional services.* Applicants will be responsible for providing the services necessary to plan projects including design of facilities, preparation of cost and income estimates, development of proposals for organization and financing, and overall operation and maintenance of the facility. Necessary professional services may include such

## 7 CFR Ch. XVII (1-1-10 Edition)

as that of an engineer, architect, attorney, bond counsel, accountant, auditor, and financial advisor or fiscal agent. Form RD 442-19, "Agreement for Engineering Services," may be used when appropriate. RUS Bulletin 1780-7, "Legal Service Agreement" may be used to prepare the agreement for legal services.

(c) *Other services.* Contracts for other services such as management, operation, and maintenance will be developed by the applicant and presented to the RUS official developing the docket for review and approval.

(d) *Fees for services.* Fees provided for in contracts, agreements or services will not be more than those ordinarily charged by the profession for similar work when RUS financing is not involved.

(e) *State pollution control or Environmental Protection Agency standards.* Facilities will be designed, installed and operated to prevent pollution of water in excess of established standards. Effluent disposal will conform with appropriate State and Federal Water Pollution Control Standards.

(f) *Water pollution.* When repayment of a WS loan, WS advance, or RCD loan will be dependent upon income from the use or sale of water, RUS approval will be contingent upon a determination that the proposed use of stored water for recreation or municipal supply might not be permitted by a State health department because the water is being polluted from an upstream or other source.

(g) *Environmental requirements.* Actions will be taken to comply with the National Environmental Policy Act (42 U.S.C. 4321 et seq.) in accordance with subpart G of part 1940 of this title. When environmental assessments and environmental impact statements have been prepared on WS plans or RCD area plans by NRCS, a separate environmental impact statement or assessment on WS works of improvement or RCD measures for which a WS loan, WS advance, or RCD loan is requested will not be necessary unless the NRCS environmental review fails to meet the requirements of subpart G of part 1940 of this title. The Rural Development State Director should document the action taken by NRCS in compliance